

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.12116 OF 2007

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DATED: 12-06-2007

Between :

Smt. Gaddam Padma

... Petitioner

And

The District Collector,
Krishna,
Machilipatnam and 3 others.

.. Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.12116 OF 2007

ORDER :

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The 3rd respondent herein had issued a notification to make appointment of fair price shop dealer of China Ogirala village, Vuyyur Mandal, Krishna District. In response to the same, the petitioner and the 4th respondent herein along with 4 others have filed their applications. Interview was conducted on 20-09-2004 and the 3rd respondent by order dated 26-10-2004 appointed the 4th respondent herein as the fair price shop dealer. Aggrieved by the same, the petitioner preferred an appeal before the 2nd respondent. The said appeal was disposed of by order dated 08-05-2005 holding that the notification issued by the 3rd respondent itself was defective since the 3rd respondent failed to specify in the notification whether the fair price shop for which the applications were invited was meant for scheduled castes, scheduled tribes, backward classes, physically handicapped or women. It is stated that the failure of the appointing authority to specify under which category, the vacancy arose had rendered the notification defective and therefore, it is necessary to re-notify the vacancy and make appointments afresh. Accordingly, appointment of the 4th respondent was set-aside and the 3rd respondent was directed to issue notification afresh following the procedure laid down in Andhra Pradesh State Public Distribution System Control Order, 2001 (for short 'the Control Order'). It appears that the said order was challenged by the 4th respondent by filing

W.P.No.11818 of 2005, but this Court declined to entertain the writ petition. Thereafter, the petitioner preferred a revision petition before the first respondent contending *inter alia* that having set aside the appointment of the 4th respondent, the 2nd respondent ought to have appointed the petitioner as the fair price shop dealer instead of remanding the matter to the Revenue Divisional Officer for issuing a fresh notification. The said revision petition was dismissed by the 1st respondent on the ground that W.P.No.11818 of 2005 filed by the 4th respondent was already dismissed by this Court thereby confirming the cancellation of notification as ordered by the 2nd respondent. However, the petitioner herein was granted liberty to apply for the post of fair price shop as and when the Revenue Divisional Officer, Nuzvid, issued a fresh notification. The said order passed by the 1st respondent is under challenge in this writ petition.

Learned counsel for the petitioner vehemently contended that the petitioner was not a party to W.P.11818 of 2005, which was preferred by the 4th respondent herein and therefore, the order passed by this Court is not binding on him and the 1st respondent ought to have considered her revision independently on merits.

At the outset, it is to be noted that the fact that the appointing authority failed to specify the category under which the vacancy arose, has not been disputed by the petitioner. If that be so, on the face of it the notification was defective and the order of the 2nd respondent in directing to notify the vacancy afresh cannot be held to be erroneous on any ground whatsoever. When once the notification itself is defective, the mere fact that the petitioner had satisfied the eligibility criteria is immaterial and does not entitle the petitioner to seek finalisation of appointments. Hence, I am of the opinion that the 1st respondent has not committed any error in declining to entertain the revision petition preferred by the petitioner.

Accordingly, the writ petition is dismissed. However, this shall

not preclude the petitioner to apply as and when the vacancy is notified by the Revenue Divisional Officer inviting applications to fill up the vacancy in question. No costs.

G. ROHINI, J.

Date 12-06-2007
KLP